THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.26387 OF 1999

Dated: 12th June, 2006.

Between :

1. APSTC, rep. by its Managing Director,

Mushirabad, Hyderabad and another. … Petitioners

And

1. State Transport Appellate Tribunal, A.P., Hyderabad,

Rep. by its Presiding Officer, and 2 others. …Respondents.

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ORDER :

This writ petition is filed by the A.P. State Road Transport Corporation (Corporation) questioning the order passed by the State Transport Appellate Tribunal (STAT) in A.P.No.403 of 1998 dated 24-3-1999 thereby setting aside the order passed by the 2nd respondent dated 26-5-1998 and directing to issue stage carriage permit as mofussil service to the 3rd respondent herein.

The application of the 3rd respondent for grant of pucca stage carriage permit on the mofussil route from Kasinagar to Kasibugga was rejected by the 2nd respondent by Resolution dated 26-5-1998 on the ground that as per the conditions of approved scheme overlapping was allowed not more than 8 Kms and the Corporation was serving major extent and the route was a short route and un-remunerative. On appeal preferred by the 3rd respondent, the State Transport Appellate Tribunal, having taken into consideration the scheme under G.O.Ms.No.605, dated 19-5-1975 and following the decision of this Court in APSRTC vs. D.CH.SATYANARAYANA RAJU, opined that the approved scheme did not amount to total prohibition for grant of permit on the route which overlaps a partial route notified under the Scheme and accordingly allowed the appeal with a direction to issue stage carriage permit to the 3rd respondent herein. The said order is challenged in this writ petition by the Corporation.

The learned Standing Counsel Sri K. Srinivasa Rao at the outset submitted that the decision in D.CH.SATYANARAYANA RAJU'S case (1 supra) followed by the State Transport Appellate Tribunal is no longer good law since the same was reversed by a Full Bench of this Court in DM, APSRTC, VIZIANAGARAM v. STATE TRANSPORT APPELLATE TRIBUNAL, A.P., in which the Full Bench held that plying of vehicle on the overlapping portion of the route is completely excluded. In the said decision, the Full Bench, while considering the scope and object of a similar notification in G.O.Ms.No.625, dated 19-5-1975, held that complete exclusion of plying a stage carriage permit on the routes overlapping would include partial overlapping also. It was further held that the scheme has to be read in its entirety.

Having regard to the principle laid down by Full Bench in the above case, as

rightly contended by the learned Standing Counsel, the order of State Transport Appellate Tribunal cannot be sustained.

However, the learned Counsel for the 3rd respondent disputed the correct extent of the overlapping and pointed out that even according to the Corporation, the overlapping was only to an extent of 0.9 kms.

I find force in the submission of the learned Counsel for the 3rd respondent. Having regard to the facts and circumstances, it appears to me that actual overlapping has to be surveyed by the concerned officials.

Accordingly, while setting aside the order of the Tribunal in A.P.No.403 of 1998, dated 24-3-1999 as well as the order of the Regional Transport Authority, Srikakulam, dated 26-5-1998, the matter is remanded back to the 2nd respondent to survey the actual overlapping and to pass appropriate orders afresh in the light of the principles laid down by the Full Bench in DM, APSRTC, VIZIANAGARAM'S case (2 supra) as expeditiously as possible preferably within a period of three (3) months from the date of receipt of this order. Till such time, the respondents shall not interfere with plying of the vehicles by the 3rd respondent.

Writ Petition is accordingly disposed of. No costs.

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G. ROHINI, J.

Dt. 12-6-2006

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